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6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE TERRITORY OF GUAM

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 RUBY J. NGIRMEKUR,

13 Defendant.

CRIMINAL CASE NO. 17-00012-003

**UNITED STATES' SENTENCING
MEMORANDUM**

14 COMES NOW, the United States of America, by and through undersigned counsel and
15 submits the following Sentencing Memorandum:

16 A. Offense Conduct and Presentence Investigation Report

17 On March 31, 2017, Defendant RUBY J. NGIRMEKUR pled guilty to an Information,
18 charging her with conspiracy to commit financial institution fraud in violation of 18 U.S.C. §
19 1349. The defendant has accepted responsibility for her crime and is entitled to a three-level
20 reduction for acceptance of responsibility under USSG §3E1.1(a) and (b). The Presentence
21 Investigation Report (PSR) should reflect a Total Offense Level of 14 and, with Criminal History
22 Category V, an advisory guidelines range of 33 to 41 months imprisonment. For the reasons set
23 forth below, the government recommends a 33-month prison sentence followed by a 5-year term
24 of supervised release. The government also recommends that defendant be ordered to pay a

1 \$100 special assessment fee and restitution of \$13,090 to Bank of Guam.

2 The defendant participated in an ATM debit fraud scam involving Bank of Guam (BOG)
3 funds and fraudulent checks from Wells Fargo Bank, N.A., Bank of Hawaii (BOH), and Navy
4 Federal Credit Union (NFCU). As part of the conspiracy, the defendant deposited and caused to
5 deposit such fraudulent and non-sufficient funds checks into third party BOG accounts via ATM
6 transactions, and then withdraw funds based upon the deposited checks. The defendant
7 recruited others for access to their BOG bank accounts, and also conducted debit transactions as
8 part of the scheme. She used their ATM or debit cards, including the PINs to obtain the cash.
9 For the entire period of the conspiracy the defendant and her co-conspirators attempted to obtain
10 \$95,100 from BOG by causing to deposit 101 fraudulent Wells Fargo Bank checks, 14 fraudulent
11 BOH checks, and 8 fraudulent NFCU checks. As a result of the scheme and via ATM cash
12 withdrawals, the defendant fraudulently obtained \$13,090 from BOG.

13 B. Consideration of 18 U.S.C. §3553(a) Factors

14 (1) Nature and Circumstances of the Offense

15 The defendant committed a serious financial crime which carries a statutory maximum
16 sentence, among other things, of 30 years imprisonment.

17 (2) History and Characteristics of Defendant

18 Defendant's prior criminal history has already been taken into account in calculating her
19 applicable guidelines range by being placed in Criminal History Category of V. The defendant
20 committed the present crime while she was on probation for felony possession of a schedule II
21 controlled substance in two Superior Court of Guam cases.

22 (3) The Need for Sentence to Reflect Seriousness of the Offense, Promote Respect for
23 the Law and Provide Just Punishment for the Offense, and Need to Afford Adequate
Deterrence

24 A guidelines sentence within a range of 33 to 41 months is appropriate to reflect these

1 factors. The defendant's prior involvement with the criminal justice system, and the fact that she
2 was on local probation, did not deter her from committing the instant offense.

3 (4) The Need to Protect the Public from Further Crimes of the Defendant

4 Based on her recidivist criminal history, the term of recommended imprisonment is
5 sufficient to protect the public from future crimes that the defendant may commit.

6 The government recommends the lowest sentence of 33 months, within the range of 33 to
7 41 months imprisonment, and restitution of \$13,090.

8 RESPECTFULLY SUBMITTED this 5th day of March, 2018.

9 SHAWN N. ANDERSON
10 United States Attorney
Districts of Guam and the NMI

11 By: /s/ Marivic P. David
12 MARIVIC P. DAVID
13 Assistant U.S. Attorney
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